

14 April 1975

Mr. Richard C. Sachs
Government and General Research Division
Congressional Research Service
Library of Congress
Washington, D. C. 20540

Dear Mr. Sachs:

This is in response to your letter of 25 February 1975 concerning a questionnaire on this Agency's regulations on "communications between agency staff and persons outside the agency not parties to agency proceedings."

It seems apparent that this survey relates essentially to regulatory or quasi-regulatory agencies and at assuring that their proceedings and adjudications are conducted in the public interest.

The Central Intelligence Agency is not a public information organization but was established by the National Security Act of 1947 to provide the Government with a source of foreign intelligence. While this highly sensitive mission of gathering and disseminating foreign intelligence may involve contact with individuals not officially connected with the Agency, whatever regulations govern these contacts are suited to the unique requirements of the intelligence process rather than to the need for impartial and public regulatory proceedings. Moreover, any attempt to codify the procedures for such contacts into public rules or regulations would be counter to the Director's statutory responsibilities.

Congress recognizes the principle that information regarding the procedures and activities of this Agency should be strictly controlled. This recognition is embodied in statutory authorities which exempt the Central Intelligence Agency from the provisions of any law which require the publication or disclosure of Agency organization and functions (Section 6 of the Central Intelligence Agency Act of 1949) and which charge the



Approved For Release 2005/04/27 : CIA-RDP77M00144R000600040021-2

THE LIBRARY OF CONGRESS

Congressional Research Service

WASHINGTON, D.C. 20540

Dec 75-0383
February 25, 1975

STAT

[Redacted]
Legislative Counsel
Central Intelligence Agency
Washington, D.C. 20505

STAT

Dear [Redacted]

STAT

In response to my telephone conversation of February 21 with Mr. [Redacted] of your Office of Congressional Relations and at the direction of the subcommittee chairman who ordered this survey, I am enclosing another copy of the Congressional Research Service survey of Federal agencies on the existence of agency regulations requiring the keeping of meeting logs recording communications between agency staff and persons outside the agency not parties to agency proceedings. The Congressional subcommittee chairman has indicated he requires a reply from all major Federal agencies and offices. We have received a reply from 83 percent. I have also attached the original covering letter from Mr. Lester S. Jayson, CRS Director, and a copy of Federal Energy Administration regulations pertaining to this subject.

You may find it helpful to know that Sec. 321(d) of the Legislative Reorganization Act of 1970, referred to in the first paragraph of Mr. Jayson's letter, may be found at 2 U.S.C. 166.

Very truly yours,

Richard C. Sachs

Richard C. Sachs
Government and General Research Division



THE LIBRARY OF CONGRESS
Congressional Research Service

WASHINGTON, D.C. 20540

December 6, 1974

Dear Sir:

Pursuant to Sec. 321(d) of the Legislative Reorganization Act of 1970, the chairman of a subcommittee of Congress has requested the Service to survey all Federal departments, their agencies, and independent agencies to determine if they have in force, or plan to have, regulations requiring written reports and meetings logs recording oral or in-person communication between staff of the agency and persons from outside the agency who are not parties to agency proceedings. Such regulations were recently adopted by the Federal Energy Administration and appear in 39 Federal Register 34295, a copy of which is enclosed.

Would you kindly complete the enclosed questionnaire and, together with a copy of your regulations or proposed regulations regarding this subject, return it to the address indicated.

The chairman of the subcommittee has requested that responses be filed in committee offices no later than December 27, 1974.

Your assistance in this matter is greatly appreciated.

Sincerely,

Lester S. Jayson
Director

NAME AND POSITION OF RESPONDENT _____

AGENCY _____

ADDRESS _____

Would you kindly complete this questionnaire and, together with a copy of your agency's regulation or proposed regulation regarding this subject, return to:

Mr. Richard C. Sachs
Government and General Research Division
Congressional Research Service
Library of Congress
Washington, D.C. 20540
or
Library of Congress
Stop Number 303

1. Does your department or agency have or plan to have, a regulation that requires agency staff to make written reports and keep meeting logs recording oral or in-person communications between staff of the agency and persons from outside the agency who are not parties to your agency's proceedings? In addition to "yes" or "no" please briefly explain the background of such regulations or the status of a proposed regulation, for example, the date when a proposed regulation will take effect.

2. If you have such a regulation in force, what official is responsible for its administration, i.e., both report-collecting and enforcement.

3. Has the office administering this regulation received any allegations and/or taken any disciplinary action with respect to violations of the regulation? For example, have any employees been suspended for violation of this regulation?

(use reverse side as needed to complete responses)

Part 204 is added to Chapter II to read as follows:

Sec.

204.1 Purpose and scope.

204.2 Definitions.

204.3 Preparation of record of outside contact forms.

204.4 Preparation of meeting logs.

204.5 Public record of meetings.

Authority: Federal Energy Administration Act of 1974, Pub. L. 93-275; E. O. 11790, 39 FR 23185.

§ 204.1 Purpose and Scope.

This part establishes regulations for the preparation and maintenance, by specified FEA employees, of written reports and meeting logs regarding certain types of oral communications received from and meetings held with persons from outside the agency. Procedures are also established for the preparation and distribution to the public of a list of all meetings that have occurred between the Administrator, the Deputy Administrator, Assistant Administrators, or the General Counsel and persons from outside the agency during the preceding two-week period. These regulations and procedures are designed to maintain the integrity of FEA's decision making process, to insure that FEA programs and policies are developed and implemented in an open atmosphere, and to promote public confidence in FEA.

§ 204.2 Definitions.

As used in this part—

(a) "Appeal" means a request for further view of an order or interpretation, or of any action taken in response to an application.

(b) "Application" means a request for an exception, exemption, assignment or adjustment, modification or rescission, or stay.

(c) "Enforcement proceeding" means a proceeding relating to the preparation and issuance by FEA of notices of probable violation or remedial orders.

(d) "FEA" means the Federal Energy Administration.

(e) "Noninvolved person" means a person with whom contact would normally not be made in the routine processing by FEA personnel of an application, interpretation request, petition for special redress, appeal, investigation or enforcement proceeding and includes, but is not limited to, a Member of Congress or his staff, an employee or official of another government agency or of the Executive Branch, and any other person in public or private life not directly involved in the matter. It does not include an official or employee of FEA, or a person from outside the agency with whom an employee would be expected routinely to communicate in the normal course of processing the matter, including but not limited to, the applicant, the person requesting an interpretation, an appellant, a petitioner for special redress, a person under investigation, an informant in an investigation, a person charged with a violation, a party or witness to a proceeding or the attorney representing such person.

(f) "Person from outside the agency" means a person not employed by FEA or detailed to FEA by another Federal agency.

(g) "Petition for special redress" means a "Petition for Special Redress and Other Relief" filed with the FEA Office of Private Grievances and Redress pursuant to section 21 of the Federal Energy Administration Act and Part 205 of this chapter.

§ 204.3 Preparation of record of outside contact forms.

(a) All FEA employees in grades GS-15 and above shall prepare a "Record of Outside Contact Form" ("Record Form") on each oral communication received (in person, by telephone or otherwise) from a non-involved person expressing an opinion or viewpoint on a specific application, interpretation request, appeal, petition for redress, investigation, or enforcement proceeding pending before FEA: *Provided*, That no Record Form shall be prepared for routine requests for information concerning the status of a matter, including, but not limited to, inquiries regarding when FEA actions were or may be taken, the identity of parties or staff personnel responsible for a matter, or the availability and location of public information concerning a matter.

(b) The form set forth below, entitled "Record of Outside Contact Form", shall be used in complying with the provisions of paragraph (a) of this section.

RECORD OF OUTSIDE CONTACT

(Identity of Application, Petition for Redress, Appeal, Interpretation Request, Investigation or Enforcement Proceeding Involved)

Name of Communicant.....
Organizations or Entities Represented.....

Date and time of Communication.....
Place or Method of Communication.....
Brief Summary of Subject Matter(s) Discussed:.....

Completed by:

Name.....
Office.....

(c) Completed Record Forms shall be placed in the appropriate subject matter or case file and shall thereafter become part of the public record, if and when a public record of that particular matter is established. If the communication concerns an appeal before the Office of Exceptions and Appeals, the completed Record Form shall be immediately transmitted to that Office where it shall be placed in the appropriate application or enforcement proceeding file: *Provided, however*, That such Record Forms shall be maintained separately from the materials upon which the Review Committee may rely in reaching a final decision.

§ 204.4 Preparation of meeting logs.

(a) The Administrator, the Deputy Administrator, the General Counsel, and all Assistant Administrators and Directors of FEA Offices shall maintain logs of

their meetings with persons from outside the agency concerning FEA policy questions.

(b) The meeting logs prepared pursuant to paragraph (a) of this section shall reflect, at a minimum, the date and place of each meeting, the name of each participant in the meeting, the organizations or entities represented by each participant, and a brief summary of the subject matter or matters discussed.

§ 204.5 Public record of meetings.

(a) Within one week after the 15th and the end of each month, the Administrator, the Deputy Administrator, each Assistant Administrator, and the General Counsel shall submit to the Office of Public Affairs a list of all meetings that they have held with persons from outside FEA during the preceding half-month period. The list shall contain the date of each meeting, the names of all participants, the entities represented, and the general subject discussed.

(b) The Office of Public Affairs shall make the lists prepared pursuant to paragraph (a) of this section available to the public, upon request, in its Public Reference Room. In addition, the Office of Public Affairs shall distribute copies of the lists to interested parties on a regular basis.

[FR Doc. 74-22375 Filed 9-24-74; 8:43 am]

Title 12—Banks and Banking

CHAPTER V—FEDERAL HOME LOAN BANK BOARD

SUBCHAPTER 6—FEDERAL HOME LOAN BANK SYSTEM

[No. 74-958]

PART 523—MEMBERS OF BANKS Liquidity

SEPTEMBER 18, 1974.

The Federal Home Loan Bank Board considers it desirable to amend § 523.11 of the regulations for the Federal Home Loan Bank System (12 CFR 523.11) for the purposes of reducing the overall liquidity requirement of each Federal Home Loan Bank member from 5½ percent to 5 percent of its liquidity base and of reducing each member's short-term liquidity requirement from 1½ percent to 1 percent of such base. Accordingly, the Federal Home Loan Bank Board hereby amends said § 523.11 by revising paragraph (a) thereof, to read as follows, effective September 25, 1974:

§ 523.11 Liquidity requirements.

(a) *General*. For each calendar month, each member, other than a mutual savings bank as to which there is in effect the election provided for in paragraph (e) of this section, shall maintain an average daily balance of liquid assets in an amount not less than 5 percent of the average daily balance of the member's liquidity base during the preceding calendar month, except as otherwise provided in paragraphs (b) and (d) of this section. For each calendar month, each member, other than a mutual savings bank or an insurance

RULES AND REGULATIONS

34395

through fourteen and substituting therefor the following:

101. Filing of application.

(a) * * * An applicant for a construction permit for a nuclear power reactor subject to § 51.5(a) of this chapter may submit the information required of applicants by Part 50 of this chapter in three parts. One part shall be accompanied by the information required by § 50.30(f) of this chapter, another part shall include any information requested by § 50.34(a) and 50.34a of this chapter and a third part shall include any information required by § 50.33a. One part may precede or follow other parts by no longer than six (6) months except that the part including information required by § 50.33a shall be submitted in accordance with time periods specified in § 50.33a. The Regulatory staff may return the later information to the applicant, informing it in what respects the information is incomplete, if the information is not complete or in conformance with the requirements of this chapter. Such a determination of completeness will generally be made within a period of thirty (30) days. Except for the part including information required by § 50.33a, whichever part is filed first shall also include the fee required by §§ 50.33(e) and 170.21 of this chapter and the information required by § 50.37 of this chapter. The Commission will accept for docketing an application for a construction permit for a nuclear power reactor subject to § 51.5(a) of this chapter where one part of the application as described above is complete and conforms to the requirements of Part 50 of this chapter.

2. Section 50.33a is amended to read as follows:

§ 50.33a. Information required for anti-trust review.¹

(a) An applicant for a construction permit for a nuclear power reactor shall submit the information requested by the Attorney General, as described in Appendix L to this part, if the application is for a class 103 permit. This information shall be submitted as a separate document prior to any other part of the license application as provided in paragraph (b) and in accordance with § 2.101 of this chapter.

(b) Any person who applies for a class 103 construction permit for a nuclear power reactor on or after July 28, 1975 shall submit the document titled "Information Requested by the Attorney General for Antitrust Review" at least nine (9) months but not more than thirty-six months prior to the date of submittal of any part of the application for a class 103 construction permit.

(c) Any person who applies for such a

construction permit prior to July 28, 1975 shall submit the document titled "Information Requested by the Attorney General for Antitrust Review" as soon as possible.

3. The Introduction to Appendix L is amended to read as follows:

Introduction. The information in this Appendix is that requested by the Attorney General in connection with his review, pursuant to section 105c of the Atomic Energy Act of 1954, as amended, of certain license applications for nuclear power plants. The applicant shall submit the information as a separate document titled, "Information Requested by the Attorney General for Antitrust Review." Twenty (20) copies shall be submitted prior to any other part of the facility license application as provided in § 50.33a and in accordance with § 2.101 of this chapter and not less than twenty-five (25) additional copies shall be retained by the applicant to be available as needed during the antitrust review.

4. The first sentence of Question 9 of Appendix L is amended to read as follows:

9. List, and provide the mailing address for non-affiliated electric utility systems with peak loads smaller than applicant's which serve either at wholesale or at retail adjacent to areas served by the applicant. * * *

Effective date. The foregoing amendments become effective on October 25, 1974.

(Sec. 103, 161, Pub. L. 83-703, 91-560, 68 Stat. 938, 948; 84 Stat. 1473 (42 U.S.C. 2135, 2201))

Dated at Washington, D.C., this 20th day of September 1974.

For the Atomic Energy Commission.

GORDON M. GRANT,
Acting Secretary of the Commission.

[FR Doc. 72-22230 Filed 9-24-74; 8:45 am]

CHAPTER II—FEDERAL ENERGY ADMINISTRATION

PART 204—RECORDS OF ORAL COMMUNICATION WITH PERSONS OUTSIDE FEA

Establishment of Procedures to Record Certain Oral Communications

The Federal Energy Administration ("FEA") hereby establishes Part 204 of its regulations in order to provide internal FEA procedures for preparing and maintaining written records of oral communications received from persons outside FEA concerning applications, petitions, appeals, investigations, or enforcement proceedings being considered by FEA. The new Part also sets forth procedures for maintaining logs of meetings between the Administrator, the Deputy Administrator, the General Counsel, Assistant Administrators or Directors of FEA Offices and persons outside the agency concerning FEA policy questions. Finally, procedures are established for preparing and making available to the public a list of all meetings that have occurred between the Administrator, the

Deputy Administrator, Assistant Administrators or the General Counsel and persons outside FEA during the preceding two-week period.

Part 204 is designed to maintain the integrity of FEA's decision making process, to insure that FEA's programs and policies are developed and implemented in an open atmosphere and to promote public confidence in the agency.

Section 204.1 sets forth the general organization and objectives of Part 204. Section 204.2 contains the definitions applicable to this part.

Under the provisions of § 204.3, FEA employees in grade GS-15 and above, will be required to prepare and maintain written records of oral communications received from "non-involved" persons expressing an opinion or viewpoint on a specific application, interpretation request, appeal, petition for special redress, investigation, or enforcement proceeding pending before FEA. The purpose of the requirement that written records be maintained on communications from "non-involved" persons, rather than from actual parties to applications or proceedings, is to insure that sources of influence that would not otherwise be apparent to the public are identified. Section 204.3 also prescribes the form to be utilized in reporting conversations. Such forms will provide information on: The name of the communicant, the application or proceeding involved, the organization or entities represented by the communicant, and the subject matter or matters discussed.

Under the provisions of § 204.4, the Administrator, the Deputy Administrator, the General Counsel, and all Assistant Administrators and Directors of FEA Offices will be required to maintain records of their meetings with persons from outside the agency concerning FEA policy questions. These records will identify the organizations and entities represented by each participant and will provide a brief summary of the subject matter or matters discussed.

Section 204.4 requires the Office of Public Affairs to distribute to interested parties a list of all meetings that have occurred between the Administrator, the Deputy Administrator, Assistant Administrators, or the General Counsel and persons from outside the agency during the preceding two-week period. These lists will also be made available to the public in the Office of Public Affairs' Public Reference Room.

Because Part 204 pertains to rules of internal agency procedure and practice, formal notice and public hearings are not required.

In consideration of the foregoing, a new Part 204 of Chapter II, Title 10 of the Code of Federal Regulations is hereby established.

Issued in Washington, D.C., on September 20, 1974.

ROBERT E. MONTGOMERY, Jr.,
General Counsel,
Federal Energy Administration.

¹ The reporting requirements contained in §§ 50.33a, 50.55b, 50.80, and Appendix L of Part 50 have been approved by GAO under B-183323 (R0071). This clearance expires 8-31-77.